

A G. Contract No. KR01 0921TRN  
ADOT ECS File: JPA 01-74  
Project No NH-053-2(33)/260 GI 272  
TRACS No. H4472 01C  
FY02 Item No. 12901  
Section: SR-260 – Christopher Creek and  
Preacher Canyon - Mitigation

INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE STATE OF ARIZONA  
AND  
THE TONTO NATIONAL FOREST

THIS AGREEMENT is entered into 24 July, 2001 pursuant to Arizona Revised Statutes Sections 11-951 through 11-954, as amended between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TONTO NATIONAL FOREST acting by and through its Forest Supervisor.

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The Forest Service is empowered by the Cooperative Funds Act of June 30, 1914, 16 U.S.C. 498 and the Intergovernmental Cooperative Act of 1968, Title III, 31 U.S.C. 6501-6508, Pub. L. 90-577, as amended, Pub. L. 97-258, September 13, 1982, and has delegated to the undersigned the authority to execute this agreement on behalf of the Forest Service.

3. Incident to roadway improvements on SR-260 now under construction by the State, it is a requirement of the project permit to mitigate lost riparian and wildlife habitat along the 8.1 mile project corridor. The work consists of constructing of water catchments, bat abodes, elk enclosures with interpretive signing, area erosion control and revegetation, and stream restoration along Sharp Creek, generally in accordance with Exhibit A, a copy of which is attached hereto and made a part hereof, at a currently estimated cost of \$135,374.00, all at State expense, hereinafter referred to as the Project.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

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NO 24780  
Filed with the Secretary of State  
Date Filed: 07/24/01  
Betsy Bowers  
Secretary of State

By Vicki J. Haenewald

## II. SCOPE OF WORK

### 1. The Forest Service will:

a. Complete on behalf of the State all aspects and requirements of the permit, generally in accordance with Exhibit A. Provide design plans, specifications and such other documents and services required for the Project, and provide them to the State for concurrence.

b. As required, call for bids and, upon the concurrence of the State, award one or more construction contracts for the Project. Administer same and make all payments to the contractor(s). No more often than monthly, invoice the State, in the form of Exhibit B, for the reasonable direct actual cost of the Project, with no profit or fee, in an amount currently estimated at \$135,374.00. Be responsible for any contractor claims for extra compensation due to delays or whatever reason.

c. Upon completion, approve and accept the project on behalf of the parties hereto as complete. Maintain the facility in a safe, sanitary and attractive manner as designed. All construction and maintenance work shall be conducted in a manner to minimize traffic congestion and interference with through traffic. All traffic control will meet the requirement of the Arizona Department of Transportation "Uniform Traffic Control Manual".

### 2. The State will:

a. Review and provide comments, and approve the design plans for Project.

b. Pay the Forest Service within 30 days after receipt and approval of monthly invoices for construction, in a total amount currently estimated at \$135,374.00.

## III. MISCELLANEOUS PROVISIONS

1. This agreement shall become effective upon filing with the Arizona Secretary of State.

2. This agreement shall remain in force and effect until completion of said improvements and payments; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, may be cancelled at any time prior to the commencement of performance under this contract, upon thirty (30) days written notice to the other party.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. Pursuant to Section 22, Title 41, United States Code, no member of, or Delegate to, Congress shall be admitted to any share or part of this instrument, or any benefits that may arise therefrom.

5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. Applicable laws of the State and Federal government shall govern the rights of the parties with respect to the performance of this agreement. The parties hereto shall select a process for the resolution of claims or disputes relating to this agreement, compliant with applicable laws and regulations of the State and Federal government, and acceptable to the State and Federal government. Such process will include a provision for arbitration.

7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 South 17th Avenue, Mail Drop 616E, Room 222  
Phoenix, AZ 85007

Tonto National Forest  
Forest Supervisor (ATTN: T. Brennan)  
2324 E. McDowell Road  
Phoenix, AZ 85006

8. Attached hereto is the written determination of counsel that the parties authorized under their respective laws to enter into this agreement and the agreement is in proper form.

9. Improvements placed on National Forest System land at the direction of either of the parties, shall thereupon become the property of the United States, and shall be subject to the same regulations and administration of the Forest Service as other National Forest improvements of a similar nature.

10. This instrument in no way restricts the forest Service or the State from participating in similar activities with other public or private agencies, organizations, and individuals.


11. No part of this instrument shall entitle the State to any share or interest in the project other than the right to use and enjoy the same under the existing regulations of the Forest Service, and the right to enforce all terms and conditions of this agreement.

12. Contributions authorized by the State for use by the Forest Service, which are not spent or obligated for project(s) approved under this instrument, will be refunded to the State or authorized for use for new projects as agreed with the State, pursuant to Part II (A) and (B) (amendments).

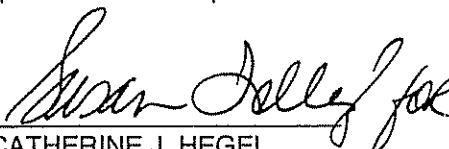
13. Any State contributions made under this instrument do not by direct reference, or implication convey Forest Service endorsement of the State's products or activities.

In witness whereof, the parties have executed this agreement the day and year first above written.

**US DEPARTMENT OF AGRICULTURE**  
Tonto National Forest

By   
KARL SIDERITS  
Forest Supervisor

**STATE OF ARIZONA**  
Department of Transportation

By   
CATHERINE J. HEGEL  
Contract Administrator

June,2001

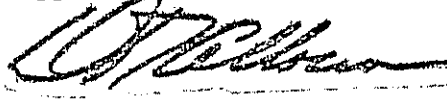
FINANCIAL PLAN  
Exhibit A

ITEM	COST (\$)
1. Wildlife drinkers: Two for Preacher Canyon and two for Christopher Creek Tanks @ \$4,306 ea Drinker and hose assembly @ \$225 ea Shipping @ \$700 ea Contract Helicopter for setting tanks at Christopher Cr Fencing Equipment cost – Bobcat with/op Labor – includes workers, Vehicle cost	 \$ 17,224 \$ 900 \$ 2,800  \$ 4,100 \$ 1,500 \$ 1,036 \$ 9,200 \$ 1,056
2. Bat Abodes: Supplied by Forest Service, Installed by ADOT Contractor. Preacher Canyon Bridge, Christopher Creek Bridge, Sharp Creek Bridge, and Wildlife Bridges. Two/ bridge for a total of 20 Abodes @ \$1,500/abode.	   \$ 30,000
3. Sharp Creek Restoration/Enhancement NEPA Planning, Archeological and Biological clearance costs are included in these estimates.  A) Elk Enclosures – construct 4 enclosures along Sharp Creek drainage totaling 4,200 lin. ft. Cost from ADOT bid tabs.  B) Revegetation – Install erosion control and plant riparian species within enclosures. Riparian Plants Labor for planting  C) Remove large conifers immediately adjacent to Sharp Creek Restoration Area to allow sunlight and encourage riparian species growth. – Labor  D) Interpretive signing for elk enclosures. Signs including posts Installation cost  E) Supervision, miscellaneous materials, transportation and equipment.  Administrative Costs  Total Project Cost	  \$ 9,544  \$ 13,250 \$ 11,750  \$ 4,500  \$ 2,100 \$ 900  \$ 10,000  \$ 15,574 \$ 135,374

RESOLUTION

BE IT RESOLVED on this 22nd day of June 2001, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona, that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the Tonto National Forest for the purpose of constructing mitigation improvements to SR-260.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.



DAVID R. ALLOCCO, P.E.  
Assistant State Engineer  
Engineering Technical Group  
for Mary E. Peters, Director





STATE OF ARIZONA

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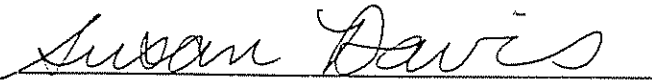
**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR01-0921TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED July 19, 2001.

JANET NAPOLITANO  
Attorney General

  
SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section

SED:ggt

Enc.

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